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10/595,191

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EXAMINER

LEE, NICHOLAS J

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/595,191 | Applicant(s) NAKAMURA, TADASHI | |
| | Examiner NICHOLAS LEE | Art Unit 2627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4 is/are allowed.
- 6) ☒ Claim(s) 7-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Allowable Subject Matter

1. Claims 1-4 are allowed.

Claims 1 is allowed since none of the prior art, alone or in combination, teaches or suggests a drive apparatus for performing a pseudo-overwrite recording for a write-once recording medium, wherein

the write-once recording medium includes a spare area and a user data area, at least one track are allocated in the user data area,

the drive apparatus comprising:

a recording/reproduction section for performing a recording operation or a reproduction operation for the write-once recording medium; and

a drive control section for controlling the recording/reproduction section, wherein the drive control section performs a process including:

receiving a recording instruction including a location at which data is to be recorded, wherein the location at which data is to be recorded is a location at which previous data is recorded;

determining a track among at least one tracks corresponding to the location included in the recording instruction;

when the determined track is a closed track or when the location included in the recording instruction is before the next writable address of the determined track, the process performed by the drive control section further includes:

controlling the recording/reproduction section to record data at a replacement location in the user data area instead of the location included in the recording instruction;

determining whether or not the recording of the data at the replacement location in the user data area has succeeded;

when the recording of the data at the replacement location in the user data area has failed, controlling the recording/reproduction section to record the data at a location in the spare area; and

generating replacement management information including at least the location included in the recording instruction or the replacement location in the user data area, and the location at which the data is recorded in response to confirming that the recording of the data in the replacement location in the user data area or the location in the spare area has succeeded.

Claims 2-4 are allowed for being dependent upon aforementioned independent claim 1.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

MPEP 2173.05(p) II - PRODUCT AND PROCESS IN THE SAME CLAIM

A single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. *IPXL Holdings v. Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990) (claim directed to Amazon.com, Inc., 430 F.2d 1377, 1384, 77 USPQ2d 1140, 1145 (Fed. Cir. 2005); an automatic transmission workstand and the method of using it held ambiguous and properly rejected under 35 U.S.C. 112, second paragraph).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 7-8 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Pub. 2004/0114474 A1 to Park et al ("Park 1").

As to claim 7, Park 1 discloses a drive apparatus for performing a pseudo-overwrite recording for a write-once recording medium (Fig. 2), wherein

the write-once recording medium includes a spare area (OSA, ISA) and a user data area (User Data Area),

at least one track are allocated in the user data area (inherent).

Note: Further, applicant is reminded that claim 7 is drawn to a structure of a write-once recording medium. The limitations beginning "wherein a process is performed on the write-once recording medium, the process including the steps of: ..." do not add to the structure of the write-once recording medium.

As to claim 8, Park 1 discloses wherein the method comprises:

receiving a reproduction instruction including a location from which data is to be reproduced (Park 1, Fig. 6; ¶ 0039-0040, 0048),

determining whether there is replacement management information associated with the location included in the reproduction instruction (¶ 0036; Park 1 discloses a TDFL (Temporary defect List) that stores management information which corresponds to position information of replacement recordings.) , and

when there is replacement management information associated with the location included in the reproduction instruction, reproducing the data from a location other than the location included in the reproduction instruction (¶ 0036, Park 1 teaches a TDFL which stores position information corresponding to replacement locations which corresponds to defective locations in the user data area. The position information is read in reproducing the information of the defective location by reading the TDFL during a reproducing operation.)).

See also Note of claim 7.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NICHOLAS LEE whose telephone number is (571)270-7354. The examiner can normally be reached on Monday-Friday 7:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph Haley/
Primary Examiner, Art Unit 2627

/NICHOLAS LEE/
Examiner, Art Unit 2627